



## SUMMARY

The main studio rule is at odds with the statutory provision it was intended to serve. It also no longer makes sense in light of changes in the radio marketplace and the Commission's own regulations as well as the encouragement within the Telecommunications Act of 1996 for radio stations to seek economies of scale. The Commission should thus eliminate the main studio rule.

At a very minimum, the Commission should amend the rule to permit a radio station to locate its "central office" at any site within a Metropolitan Statistical Area ("MSA") it serves or within the station's service contour. Alternatively, co-owned stations that serve the same MSA and have overlapping contours should be permitted to co-locate their central office within any of the stations' service areas. Replacement of the outmoded main studio requirement with this more efficient "central office rule" will permit radio stations to better serve their listeners.

The Commission should also eliminate unnecessary public inspection file requirements. A new owner of a radio station should not have to correct file deficiencies left by the station's previous owner or owners. In addition, Jacor Communications, Inc. asks the Commission to clarify what and for how long specific documents need to be retained in a station's public files.

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of	)	
	)	
Review of the Commission's Rules	)	MM Docket No. 97-138
Regarding the Main Studio and	)	
Local Public Inspection Files of	)	
Broadcast Television and Radio Stations	)	
	)	
47 C.F.R. §§ 73.1125, 73.3526 and 73.3527	)	
	)	

To the Commission

**COMMENTS OF JACOR COMMUNICATIONS, INC.**

Jacor Communications, Inc. ("Jacor"), 1/ by its attorneys and pursuant to Section 1.415 of the Commission's rules, hereby submits these Comments in response to the Commission's *Notice of Proposed Rule Making* in the above-captioned proceeding. 2/ In the *Notice*, the Commission requested comments regarding its proposed relaxation of the main studio rule set forth in Section 73.1125 of its Rules and the local public inspection file requirements contained in Sections 73.3526 and 73.3527.

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1/ Jacor is the ultimate parent company of over 100 radio stations nationwide and one television station.

2/ *Notice of Proposed Rulemaking, In the Matter of Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, MM Docket No. 97-138 (released May 28, 1997) ("Notice").

The Commission should eliminate the main studio rule. The main studio rule is outmoded, and as recognized by the Notice, produces substantial inefficiencies. The strength of radio is its local and regional outlook. Radio operators do not need mandated Commission policies on how best to learn and serve their listeners' needs. They do so day to day to maintain their competitive positions. Nevertheless, if some requirement for a local presence is maintained, Jacor urges the Commission: (1) to adopt a "central office rule" to replace the current main studio requirement; and (2) to set forth clear retention requirements for a broadcast station's local public inspection files.

**I. RADIO STATIONS SHOULD BE ABLE TO LOCATE THEIR MAIN STUDIOS AT ANY SITE WITHIN THEIR METROPOLITAN STATISTICAL AREA OR WITHIN THE AREA THEY SERVE.**

**A. The Commission Should Amend the Outdated Main Studio Requirement.**

Section 307(b) of the Communications Act instructs the Commission to seek a "fair, efficient, and equitable distribution of radio service" nationwide. Although this provision is still thought the statutory basis underlying the main studio rule, 3/ the rule no longer furthers the goal of the statute.

The existing main studio rule compels inefficient radio service by imposing substantial unnecessary costs on broadcast stations. Under the current rule, an entity that owns several radio stations serving the same Metropolitan

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3/ See Notice at ¶ 4.

Statistical Area (“MSA”) routinely cannot collocate all of these stations’ main studios at one site. Although all of the stations serve the same MSA, the entity often must nonetheless maintain more than one studio, complete with separate managerial and staff personnel as well as distinct program origination equipment. <sup>4/</sup> Only co-owned stations that happen to have overlapping principal community contours *and* that can find a suitable studio site within that area of overlap can realize the efficiencies of sharing the same studio. All other stations that share the same owner and serve the same region incur the needless costs imposed by the main studio rule, costs which plainly contradict the explicit goal of Section 307(b) of efficient broadcast service.

The inescapable inefficiencies of the main studio rule should be even less acceptable in light of Congressional encouragement for radio station owners to consolidate their operations. The Telecommunications Act of 1996 implicitly acknowledged the potential economies of scale that emerge from a substantial presence in a single broadcast market. The main studio rule, however, prevents many radio stations from realizing such significant savings by unreasonably limiting the possible locations in a MSA where individual radio stations may place their main studios.

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<sup>4/</sup> See *Memorandum Opinion and Order, Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television and Television Broadcast Stations*, 3 FCC Rcd 5024 (1988) (“1988 Program Origination Order”) at ¶ 24. See generally *Memorandum Opinion and Order, For Renewal of License of Station WHYY-TV, Wilmington, Delaware*, 93 FCC 2d 1086 (1983)(outlining requirements for proper main studio).

The main studio requirement compels further inefficiencies because of its insistence on a main *studio*. A studio, of course, entails higher equipment costs than a mere office. However, since the Commission wisely eliminated the requirement that stations originate a set percentage of their programming from their local studios, 5/ many broadcast stations have decided to use their “official” main studio to produce no or minimal programming. For these stations, the so-called main studio is often neither main, being neither a principal business nor production facility of the broadcast station, nor even a routinely functioning studio. 6/ Yet the rule still demands programming origination capabilities in each designated “main studio.”

The current main studio rule is not merely inefficient, however. It also does not materially contribute to “fair” or “equitable” broadcast service. The requirement that every broadcast station maintain a staffed and equipped main studio within its principal community contour does not significantly add to the reasons why broadcast stations choose to present balanced programming that is of particular interest to the communities they serve. Radio stations, competing with a multitude of other media, must be responsive to their local listeners to ensure they remain loyal listeners. Moreover, the mere existence of a main studio in a

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5/ See Notice at n. 9; *Report and Order, Amendment of Main Studio and Program Origination Rules for Radio and Television and Radio Broadcast Stations*, 2 FCC Rcd 3215, 3218-19 (1987) (“1987 Report and Order”).

6/ See Notice at ¶ 7 (summarizing the petition for rule making filed by Apex Associates, Armak Broadcasters, Inc., Starview Media, Inc., Silverado Broadcasting Company, and Mountain View Broadcasting Company) (the “Apex Petition”).

particular community does not prompt community residents “to monitor a station’s public interest performance” or to encourage “a continuing dialogue between the station and the community.” 7/ In this increasingly electronic age, a strict main studio requirement does not even substantially facilitate such a dialogue. Ten years ago, the Commission recognized that “community residents often communicate with stations by telephone or mail rather than visiting the studio.” 8/ During the past ten years, advancing technology, such as electronic mail and increasingly accessible facsimile machines, has only made it easier for a broadcast station to maintain a dialogue with the many communities it serves without requiring individual members of those communities to travel to some station-operated facility.

Jacor’s experiences in Columbus, Ohio, demonstrate the failings of the current studio rule. Jacor owns and operates seven radio stations that serve communities throughout the Columbus area. Under the current rule, Jacor can realistically maintain no fewer than four separate main studios, even though the stations all serve segments of the same Metropolitan Statistical Area. Most of these studios, like others maintained by parties in similar straits, “serve no useful purpose, since they are not used to originate programming and are rarely visited by the public.” 9/ Yet, because of the rule, Jacor must persist in paying for the

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7/ *Id.*; see also *1988 Program Origination Order* at ¶ 24.

8/ *Notice* at ¶ 5 (citing *1987 Report and Order* at 3218-19).

9/ *See Notice* at ¶ 7 (quoting the Apex Petition).



personnel and equipment necessary to qualify these facilities as “main studios.”

These expenses could be substantially reduced, if not almost eliminated, were Jacor permitted to consolidate two or more of the studios into a single, central location within the Columbus MSA.

**B. If the Main Studio Requirement Is Not Eliminated, the Commission Should Implement a “Central Office” Rule That Permits Co-Owned Radio Stations Serving the Same Metropolitan Statistical Area to Share a Single Main Office.**

If the Commission does not eliminate altogether specified main studio requirements, Jacor urges the Commission to adopt a new rule that would require a radio station to maintain only a regional “central office,” as opposed to a full-fledged studio, during normal business hours. This central office need not install studio or production equipment, but must have station personnel on hand to respond to questions or take suggestions from individuals who visit. The central office also should keep an updated copy of the local public inspection files of each station served by the office.

The central office would be located within the station’s contour or within the U.S. Census-defined Metropolitan Statistical Area (“MSA”) that a broadcast station serves. Under the new rule, stations may opt to locate their central office anywhere within a MSA if the station’s coverage contour intersects with a portion of that MSA. <sup>10/</sup> An MSA, by definition, is designed to encompass “a

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<sup>10/</sup> The Commission protects from interference a station’s 0.5 mV/m or 1 mV/m contour, respectively, for AM and FM broadcast stations, and thus defines the station’s service area. The service contour includes the large majority of a station’s audience. Consequently, at a minimum, the Commission should relax the main

large population nucleus” as well as neighboring communities “that have a high degree of economic and social integration with that nucleus.” 11/ In fact, the Commission has recognized that television metro markets, which usually parallel the scope of an MSA, are an entirely suitable means for determining what radio stations compete for the same audiences in one-to-a-market waiver cases. 12/ Moreover, each MSA typically boasts a regional transportation network, which facilitates travel from one segment of the area to another. Because a location anywhere within a Metropolitan Statistical Area should be reasonably accessible to any other segment of that area, the Commission should permit radio stations that serve any portion of an MSA to locate their central office within that MSA. 13/ This limitation on where stations may locate their central office is not only easy to understand and to implement, but it would fairly treat all broadcast stations that serve a particular MSA as well as sensibly reflect the realities of today’s radio industry, which routinely involves stations competing for listeners (and advertising revenues) in communities throughout their MSA.

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studio rule to allow stations to locate their studio within their service contours. Alternatively, the Commission could continue to use the more restrictive principal community contour if it also allows the additional flexibility of permitting siting within the MSA.

11/ Bureau of the Census, *1990 Census of Population and Housing*, A-8.

12/ See *Broadcast Multiple Ownership Rules*, 4 FCC Rcd 1741, n. 101 (1989).

13/ In addition, the central office rule should continue to allow stations to locate their office anywhere within the relevant contour, *see supra* n. 11, in those cases in which the contour is not entirely within the bounds of the MSA.

If the Commission is not yet prepared to take this reasonable step toward more efficient broadcast service, it should at least permit affiliated stations in the same MSA more flexibility in the co-location of a main office. At a minimum, the Commission should adopt a rule that authorizes co-owned or operated stations that serve at least one community in the same MSA and have overlapping contours to locate their mutual central office at a site within any of the stations' contours. 14/ Although this rule does not offer the same efficiencies for regional station systems of that above, it does offer affiliated stations additional flexibility to obtain the economies of scale made possible by the 1996 Act.

The potential for either of these alternatives to better fulfill the goal of Section 307(b) of fair, efficient and equitable radio service is apparent. First and foremost, the rule would eliminate the regulatory redundancy of multiple stations, each operated by the same or affiliated entities, being routinely required to maintain separate main studios in particular locations in the region. The central office rule would permit the stations, which would necessarily serve the same vicinity, to consolidate their facilities and share with their audiences the benefits of that consolidation.

Second, the central office rule would increase the possible office sites available to a radio station within the region it serves. Broadening the areas in which a station may locate its central office hardly reduces the presence of that station in its region. Radio stations must be prepared to serve and respond to

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14/ Again, the service contour may be used, as described in note 11.

communities throughout their coverage areas, as well as respond to items of interest throughout their MSA. Whether a radio station's central office is located within one or another community in that area, however, will not affect the station's commitment to the area, as the mere presence of a studio in a community is not the tie that compels a station to address the interests of that community. Instead, a radio station focuses on local needs because it wants to be attractive to its local audience.

**C. The Central Office Rule Will Both Reduce the Regulatory Burden on Broadcast Stations and Better Achieve the Goals of Section 307(b).**

Ten years ago, the Commission relaxed the main studio rule because “developments in technology, the marketplace and [its] regulations” had eliminated the purpose of certain aspects of the rule. <sup>15/</sup> The Commission has since reaffirmed its commitment to the “longstanding Congressional and Commission policy in favor of reducing regulatory burdens consistent with the public interest.” <sup>16/</sup> In light of these established principles, Jacor would support a Commission decision to eliminate any requirement that a station locate a facility in any particular community. If the Commission still believes some such requirement serves a

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<sup>15/</sup> See *1987 Report and Order* at ¶ 46. Of course, there has never been any statutory requirement that broadcast stations maintain a main studio. Section 307(b) of the Communications Act of 1934, which the *Notice* describes as the basis for the main studio rule, see *Notice* at ¶ 4, simply requires the Commission to seek an equitable distribution of radio service that can serve communities nationwide.

<sup>16/</sup> See *Notice* at ¶ 8.

sufficiently useful purpose, however, the Commission at least should replace the overly burdensome main studio requirement with the proposed central office rule. This clear and uniform rule would end the redundancies suffered by radio stations that may serve one MSA and have the same owner or operator (or have overlapping contours and the same owner or operator), 17/ but cannot currently share the same main studio. It would thus efficiently replace the current main studio regulation, which no longer promises benefits sufficient to justify the expensive inefficiencies that the requirement currently compels.

**II. THE COMMISSION SHOULD CLEARLY SET FORTH THE RETENTION PERIODS FOR DOCUMENTS TO BE KEPT IN A BROADCAST STATION'S PUBLIC INSPECTION FILES AND RELIEVE NEW OWNERS FROM CORRECTING INHERITED FILE DEFICIENCIES.**

Jacor applauds the Commission's proposals to update the list of materials that must be kept in a broadcast station's local public inspection files. As part of this effort, Jacor requests that the Commission publish a complete list of all the materials that should be in these files, as well as the retention periods for each of those documents. In particular, the Commission should clarify whether items that must be kept for the term of the broadcast station's license, such as a licensee's issues/programs list, may be removed when the license is renewed, regardless of when a specific item was placed in the file. Currently, it is unclear whether an item

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17/ "Operator" in this instance would include an entity that provides time brokerage services to a station as defined by Section 73.3555(a)(3)(i) of the Commission's Rules.

that was placed in the file midway through a license's eight-year term may be removed as soon as the license has expired or instead must remain until eight years after the item was initially placed in the file, even though the license, in the meantime, has been renewed.

Jacor also supports the Commission's and other commenters' attempts to reduce recordkeeping burdens on broadcast licensees. It endorses the Commission's proposal to eliminate any requirement that the current licensee must reconstruct missing or incomplete public file information relating to previous owners of the station, as information that is related to prior ownership, such as old ownership reports, programming and EEO practices, is irrelevant to the station's current operations and is costly, and sometimes impossible, to locate.

### III. CONCLUSION

For the foregoing reasons, Jacor favors elimination or, in the alternative, replacement of the main studio requirement with the proposed central office rule and clarification of the requirements for a broadcast station's public files.

Respectfully submitted,

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